

MEMO ENDORSED

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April 29, 2008

Pl to respond with 2-3 pgs
later by 5/13/08 @ noon.
We'll discuss on 5/19.

SO ORDERED:

Date: 5/6/08

Richard M. Berman
Richard M. Berman, U.S.D.J.

The Honorable Richard M. Berman
United States District Judge
40 Centre Street
Court Room 706
New York, New York 10007

Re: **GALICORP, LTD. v. BORDER ENTERPRISES, LLC, et al.**
Case No.: 07 CV 7814 (RMB)(KNF)
Our File No.: (SIU) 55583

Dear Justice Berman:

I write to request a pre-motion conference. Defendants Robert Biggio and Dermot O'Keeffe seek to move for summary judgment under Rule 56. The basis for seeking summary judgment is that the movants (Robert Biggio and Dermot O'Keeffe) never acted in their individual capacity and are therefore not rightful defendants in this case. The lawsuit concerns a claim by Galicorp, LTD against Border Enterprises, LLC, Robert Biggio and Dermot O'Keeffe for breach of contract.

Plaintiff was deposed on April 25, 2008 and has testified that all of his dealings with the defendants, Mr. Biggio and Mr. O'Keeffe, were in their capacity as managers of Border Enterprises, LLC.

Further, the contacts of plaintiff's president, Ennio Galenta, with the defendants were almost entirely by phone and through email. He met with Dermot O'Keeffe once in New York a few days before April 19, 2007. He also met with Mr. Biggio and Mr. O'Keeffe during a three day visit to Boston in early July of 2007. He therefore, has no firsthand knowledge of any actions they took. Further, he has indicated that, as far as he knows, he was dealing with them in their corporate capacity as managers of the defendant, Border Enterprises, LLC. It is on this basis that defendants Robert Biggio and Dermot O'Keeffe seek to move for summary judgment against the plaintiff and on their behalf.

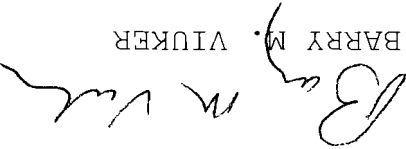
e for summary judgment
FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DAVID PERL: 5/6/08

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The defendants also seek summary judgment dismissing the cause of action for breach of contract on the grounds that no contract existed between the parties. Mr. Galenta testified at his deposition that a contract was created by emails on August 3, 2007. This so called "contract" was never finalized and key terms were admittedly missing. On that basis, defendants intend to move for summary judgment.

It is therefore requested that a pre-motion conference be scheduled.

Respectfully submitted,


BARRY M. VIUKER

BMV/mt

cc: Gerald A. Bunting, Esq.
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